

IN THE CASE OF:

BOARD DATE: 14 November 2024

DOCKET NUMBER: AR20240003450

APPLICANT REQUESTS: an upgrade of his character of service from under other than honorable conditions (UOTHC) to honorable.

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states, in effect, he served honorably his first three years and was an exemplary Soldier. He reenlisted under the current station stabilization program but was made to change duty stations anyway. He was young and foolish at the time and made a mistake of going absent without leave (AWOL) because he was upset about having to change his duty station.
 - a. In a self-authored statement, he summarizes his career in the Army referencing him earning the Expert Infantryman Badge, Army Achievement Medal, Army Good Conduct Medal, and various certificates. Although he reenlisted for station of choice, he was made to move to a different installation and when he got there, he received no support from his chain of command for the issue of his reenlistment contract.
 - b. He went AWOL because of his anger. When he realized he was wrong and made a mistake, he turned himself in and received an UOTHC discharge. He states there is not a day that has gone by since then in which he has not regretted his actions of going AWOL.
 - c. His wife encouraged him to apply for this upgrade because she knows how much his service meant to him and how bad he holds onto the regret of going AWOL. Since his discharge, he has been an exemplary citizen. He raised his stepson as his own, helps with his granddaughters, served as a foster parent for approximately 150 foster children, adopted 4 children through foster care, and has maintained employment for over 23 years where he is an information technology manager. He has a clean record outside of a few traffic tickets and has quit drinking since his discharge because he realized that drinking was partially responsible for his bad decisions. It has been 32 years since he had his last drink, and he is proud of that.
 - d. He loved serving his country and only made one bad decision. He is requesting the Board consider correcting his military records to show an honorable discharge so he will get to tell his grandchildren that he served honorably.
3. The applicant enlisted in the Regular Army on 19 July 1983 for a 3-year period. He was awarded the military occupational specialty of 11B (Infantryman). The highest rank he attained was specialist four/E-4.

4. He reenlisted on 13 March 1986, for an additional 5-year period. His DD Form 4/1 shows he reenlisted for current station stabilization reenlistment option for Fort Ord, California. His DA Form 2-1 (Personnel Qualification Record - Part II) shows he arrived at Schofield Barracks, Hawaii on 5 December 1986.
5. Three DA Forms 4187 (Personnel Action) show his duty status changed from present for duty (PDY) to AWOL effective 3 December 1987, from AWOL to dropped from rolls (DFR) effective 2 January 1988, and from DFR to PDY effective 15 January 1988 when he surrendered to military authorities at Fort Snelling, Minnesota.
6. Court-martial charges were preferred against the applicant on 20 January 1988, for violation of the Uniform Code of Military Justice (UCMJ). The relevant DD Form 458 (Charge Sheet) shows he was charged with going AWOL from on or about 3 December 1987 and remaining AWOL until on or about 15 January 1988.
7. The applicant consulted with legal counsel on the same date and executed a written request for discharge for the good of the service under the provisions of Army Regulation (AR) 635-200 (Personnel Separations - Enlisted Personnel), Chapter 10 (Discharge for the Good of the Service). He acknowledged his understanding of the following in his request:
 - a. He understood that he could request discharge for the good of the service because the charges preferred against him could result in the imposition of a punitive discharge.
 - b. Prior to completing this request, he was afforded the opportunity to consult with appointed counsel, who fully advised him of the basis for his contemplated trial by court-martial, the maximum punishment authorized under the UCMJ, of the possible effects of an UOTHC character of service, and of the procedures and rights available to him.
 - c. He acknowledged that he was making this request of his own free will and had not been subjected to any coercion by any person. Although counsel furnished him legal advice, this decision was his own. Additionally, he elected not to submit a statement in his own behalf.
8. On 16 February 1988, the applicant's immediate and indeterminate commander's recommended approval of the applicant's request for discharge under the provisions of AR 635-200, Chapter 10, and issuance of a UOTHC discharge.
9. On 19 February 1988, the separation authority approved the applicant's request for discharge for the good of the service and further directed the applicant receive a discharge UOTHC, and he be reduced to the lowest enlisted grade of E-1.

10. The applicant's DD Form 214 shows he was discharged on 22 April 1988, under the provisions of AR 635-200, Chapter 10, for the good of the service-in lieu of court martial, in the grade of E-1. He received an UOTHC characterization of service. He was credited with 4 years, 7 months, and 22 days of net active service with time lost from 3 December 1987 to 14 January 1988. His awards included, but are not limited to the Army Service Ribbon, Army Achievement Medal, and Army Good Conduct Medal.

11. The applicant additionally provides the following documents which are available in their entirety for the Board's consideration:

a. Two certificates of achievement, one showing his outstanding accomplishment from 10 through 13 February 1984 where he was awarded the expert infantryman badge with permanent orders, and one for his meritorious service from 3 through 5 May 1984 stating he was professional, enthusiastic, and dedicated to duty during the Junior Reserve Officer Training Corps training.

b. A certificate of participation earned while performing outstanding distinction in the joint readiness exercise during 15 September through 5 October 1984, and certificates for his Army Achievement Medal and Army Good Conduct Medal with corresponding permanent orders.

c. 11-character reference statements:

(1) From [REDACTED] summarizing the applicant as present, involved and willing to do the work when it came to becoming a foster parent. He is a hard worker, provider for his family, involved with all aspects of his families' lives, and a present father and husband with a strong sense of self. He is someone who commands respect with his personality, attitude, and actions, as well as a good teacher and leader at home, in his job, and his community.

(2) From [REDACTED] summarizing the applicant as a pillar of strength and support, a listener who provides guidance and words of encouragement. He has unwavering commitment towards his family, friends, and community, he is selfless, kindhearted, and a commendable person. His work in foster care has made impacts in young lives and lasting impressions with families and his community. He has been and is an exceptional human being and he is well respected.

(3) From [REDACTED] summarizing the applicant as caring and understanding, while going above and beyond to ensure his foster children felt included. He is helpful, a loving grandfather, and has taught others valuable life lessons. He helped [REDACTED] understand his background and learned to be a better more thoughtful person.

(4) From [REDACTED] summarizing the applicant as a listener, someone who cared about his foster children, an involved parent and foster parent. He treated his foster children like they were his own while being caring, compassionate, hardworking and a generous person. He is dedicated to his family, work, and one of the greatest men and father [REDACTED] had the privilege of having in her life.

(5) From [REDACTED] summarizing the applicant as a father figure, role model, and mentor all in one. He strives to give others love and support, while providing guidance. He is patient and kind and has made an impact on [REDACTED] life.

(6) From [REDACTED] summarizing the applicant as strict but kind, he pushes others in the right direction and will scold bad behavior to help you find a different way of doing things. Someone who [REDACTED] looks up to because he is kind, caring, and charismatic.

(7) From [REDACTED] summarizing the applicant as an approachable and conversational person whom others admire. He is a present parent, dedicated and caring family man, dependable, and willing to help others.

(8) From [REDACTED] summarizing the applicant as a father figure who has been a good role model by displaying everything a good man should display. Someone who is selfless, served his country and serves his community, a hard worker, someone who gives his best efforts as an employee, father, husband, grandfather, and friend.

(9) From [REDACTED] summarizing the applicant as the most legal father [REDACTED]. had, he is someone who helped [REDACTED] learn life lessons and got him on his feet, he saved [REDACTED] life while instilling great values, hard work, compassion, and honesty. [REDACTED] now fosters children because of the love and guidance the applicant instilled in him. He hopes to be half the man the applicant is.

(10) From [REDACTED] summarizing the applicant as the best foster fathers someone could ask for, with all the Army values of loyalty, duty, respect, selfless service, honor, integrity, and personal courage.

(11) From [REDACTED] summarizing the applicant as someone who instills guidance, responsibility, and love to others. He delivers on everything when others need something. He is tough as nails, and honest with no filter while showing respect. He is a role model, who you can learn to trust while being guided to a positive direction in life, but never mistake his kindness for weakness.

12. Discharges under the provisions of AR 635-200, Chapter 10 are voluntary requests for discharge for the good of the service from the Soldier to avoid a trial by court-martial. An UOTHC character of service is normally considered proper.

13. In reaching its determination, the Board can consider the applicant's petition, service record, and statements in light of the published guidance on equity, injustice, or clemency.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was charged with an offense punishable under the Uniform Code of Military Justice with a punitive discharge. After being charged, he consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board found no error or injustice in the separation proceedings and designated characterization of service. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was not in error or unjust.
2. Upon review of the applicant's service record, the Board determined he served a period of continuous honorable service from 19 July 1983 to 12 March 1986 and his record should reflect that service accordingly.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

 GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 22 April 1988, to show:

- SOLDIER HAS COMPLETED FIRST FULL TERM OF SERVICE
- CONTINUOUS HONORABLE SERVICE FROM 830719 UNTIL 860312

2. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to upgrading his characterization of service.

6/10/2025

X

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), in effect at the time, provided guidance for the administrative separation of enlisted personnel:
 - a. Chapter 10 of this regulation provided a member who has committed an offense or offenses, the punishment for which, under the UCMJ and the Manual for Courts-Martial, includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the Service. The discharge request may be submitted after court-martial charges are preferred against the member, or, until final action on the case by the court-martial convening authority. A member who is under a suspended sentence of a punitive discharge may also submit a request for discharge for the good of the Service. An under other than honorable conditions (UOTHC) discharge certificate normally is appropriate for a member who is discharged for the good of the Service. However, the separation authority may direct a general discharge certificate if such is merited by the member's overall record during the current enlistment.
 - b. An honorable discharge is a separation with honor. The issuance of an honorable discharge certificate is predicated upon proper military behavior and proficient performance of duty during the member's current enlistment or period of obligated service with due consideration for the member's age, length of service, grade, and general aptitude. Where a member has served faithfully and performed to the best of his ability, and there is no derogatory information in his military record, he should be furnished an honorable discharge certificate.
 - c. An under honorable conditions (general), discharge is a separation from the Army under honorable conditions. It is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.
 - d. An UOTHC discharge is an administrative separation from the service under conditions other than honorable. It may be issued for misconduct and the good of the service.
3. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (BCM/NR) regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal

sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

- a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.
- b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

//NOTHING FOLLOWS//